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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DIGITAL LICENSING INC. (d/b/a “DEBT Box”), a Wyoming corporation; JASON R. ANDERSON, an individual; JACOB S. ANDERSON, an individual; SCHAD E. BRANNON, an individual; ROYDON B. NELSON, an individual; JAMES E. FRANKLIN, an individual; WESTERN OIL EXPLORATION COMPANY, INC., a Nevada corporation; RYAN BOWEN, an individual; IX GLOBAL, LLC, a Utah limited liability company; JOSEPH A. MARTINEZ, an individual; BENJAMIN F. DANIELS, an individual; MARK W. SCHULER, an individual; B & B INVESTMENT GROUP, LLC (d/b/a “CORE 1 CRYPTO”), a Utah limited liability company; TRAVIS A. FLAHERTY, an individual; ALTON O. PARKER, an individual; BW HOLDINGS, LLC (d/b/a the “FAIR PROJECT”), a Utah limited liability company; BRENDAN J. STANGIS, an individual; and

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S AND DEFENDANT RYAN BOWEN’S STIPULATED MOTION FOR DISMISSAL OF DEFENDANT BOWEN WITHOUT PREJUDICE

Case No. 2:23-cv-00482-RJS-DBP

Chief Judge Robert J. Shelby

Chief Magistrate Judge Dustin B. Pead

MATTHEW D. FRITZSCHE, an individual,

Defendants,

ARCHER DRILLING, LLC, a Wyoming limited liability company; BUSINESS FUNDING SOLUTIONS, LLC, a Utah limited liability company; BLOX LENDING, LLC, a Utah limited liability company; CALMFRITZ HOLDINGS, LLC, a Utah limited liability company; CALMES & CO, INC., a Utah corporation; FLAHERTY ENTERPRISES, LLC, an Arizona limited liability company; IX VENTURES FZCO, a United Arab Emirates company; PURDY OIL, LLC, a Nebraska limited liability company; THE GOLD COLLECTIVE LLC, a Utah limited liability company; and UIU HOLDINGS, LLC, a Delaware limited liability company,

Relief Defendants.

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and Rule 7-1(a)(2)(G) of the District of Utah's Local Rules,¹ Plaintiff Securities and Exchange Commission ("SEC") and Defendant Ryan Bowen ("Bowen") request the Court grant this stipulated motion to dismiss Defendant Bowen without prejudice. The Court recently denied the SEC's motion to dismiss this action, Dkt. 260, but did so without prejudice to the SEC refiling a proper motion in accordance with the Local Rules. Dkt. 275 at 78-79. Defendant Bowen did not oppose the SEC's original motion to dismiss. *See* Dkt. 260 at 3.² The SEC presently intends to refile its motion to dismiss this action without prejudice as to the other Defendants and Relief Defendants and is preparing that motion. However, as a result of certain exigencies that Defendant Bowen has represented to the SEC, the SEC and Defendant Bowen move now to dismiss Defendant Bowen from this action, without prejudice.³ Without taking any position regarding any of the foregoing, the other

¹ We bring this stipulated motion pursuant to Local Rule 7-1(a)(2)(G), which specifically excepts such stipulated motions from the requirement to recite relevant facts and supporting authority and provide argument. DUCivR 7-1(a)(2)(G).

² Defendant Bowen previously answered the complaint in this matter. *See* Dkt. 195. Therefore, the parties move for voluntary dismissal under Rule 41(a)(2), rather than file a notice of dismissal under Rule 41(a)(1)(A)(i).

³ In the Tenth Circuit, there is conflicting district court authority on whether Rule 41(a) can be used to voluntarily dismiss less than an entire "action." *See, e.g., Gardner v. Schumacher*, No. 1:23-cv-00189-MIS-DLM, 2023 WL 5352452, *3 n.4 (D.N.M. Aug. 21, 2023) (citing cases), *appeal pending*, No. 23-2150 (10th Cir.). The Tenth Circuit appears to have clarified in a recent unpublished decision that Rule 41(a) may be used to dismiss all claims against a single party, such as Defendant Bowen, even if other parties remain in the case. *See Kristina Consulting Group, LLC v. Debt Pay Gateway, Inc.*, No. 21-5022, 2022 WL 881575, at *2 n.4 (10th Cir. Mar. 25, 2022) ("Although Rule 41(a)(1)(A) refers to dismissal of the 'action,' the rule permits the dismissal of fewer than all parties so long as all claims against a particular party are dismissed. . . . Our decision in *Gobbo Farms & Orchards v. Poole Chemical Co.*, 81 F.3d 122, 123 (10th Cir. 1996), is not to the contrary. There, we rejected use of Rule 41(a) to dismiss fewer than all claims in the action, but all of the claims were asserted against only one defendant.") (citations omitted).

Defendants stipulate to the SEC's dismissal of Defendant Bowen from this action, without prejudice.

WHEREFORE the SEC and Defendant Bowen respectfully request this Court approve this stipulation between the SEC and Defendant Bowen and enter the attached order dismissing Defendant Bowen without prejudice.

Dated: April 2, 2024

Respectfully submitted,

/s/ Nicholas Heinke

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CERTIFICATE OF SERVICE

On this 2nd day of April, 2024, I hereby certify that I electronically filed a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification and service to all counsel of record.

/s/ Nicholas Heinke